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16 UNITED STATES DISTRICT COURT

17 CENTRAL DISTRICT OF CALIFORNIA

18 AMBER DOE,

19 Plaintiff,

20 v.

21 SEQUOIA CAPITAL, et al.,

22 Defendants.

Case No. 2:23-cv-06439-MEMF-SK

Hon. Maame Ewusi-Mensah Frimpong
Referral: Hon. Steve Kim

**MICHAEL LEWIS GOGUEN'S
MOTION FOR AN ORDER (1)
DECLARING AMBER BAPTISTE
A VEXATIOUS LITIGANT AND (2)
IMPOSING A PRE-FILING
REQUIREMENT UPON HER**

[Submitted concurrently with the
Declaration of Kyle Batter and
[Proposed] Order]

Date: November 9, 2023

Time: 10:00 am

Courtroom: 8B

NOTICE OF MOTION AND MOTION

TO ALL PARTIES AND TO THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that on November 9, 2023 at 10:00 am, or as soon thereafter as the matter may be heard before the Honorable Judge Maame Ewusi-Mensah Frimpong of the United States District Court for the Central District of California, located at 350 West First Street, Los Angeles, CA, 90012, Courtroom 8B, 8th Floor, the undersigned, on behalf of Defendant Michael Goguen will, and hereby does, move this Court (1) for an order declaring that Baptiste is a vexatious litigant, and (2) for a pre-filing order enjoining Baptiste from filing any complaint or other document in any court, state or federal, within the United States or its possessions, (a) making any of the false allegations that the San Mateo Superior Court twice enjoined Baptiste from making or (b) against any of the following individuals, without first obtaining leave of the court in which she intends to file:

- Michael Lewis Goguen;
- Jamie Stephenson Goguen (Mr. Goguen’s wife);
- Two Bear Capital (Mr. Goguen’s company); and
- Goguen’s counsel Quinn Emanuel Urquhart & Sullivan, LLP, including but not limited to the following attorneys: John Quinn, Kathleen Sullivan, Diane M. Doolittle, Bruce Van Dalsem, Christopher Tayback, William Price, Suong Nguyen, Joseph Sarles, Patrick Doolittle, Margret Caruso, Michael Lifrak, Sara Pollock, Kyle Batter, Megan Kerr, Alex Gerbi, Ted Greeno, Aidan O’Rourke, Leonidas Angelakos, and Gregory Pantlin.

This motion is made pursuant to C.D. Cal. Local Rule 83-8, 28 U.S.C. 1651, and the Court’s inherent authority to “regulate the activities of abusive litigants” (*De Long v. Hennessey*, 912 F.2d 1144, 1147 (9th Cir. 1990)). This Motion is based on this Notice of Motion and Motion, the Memorandum of Points and Authorities in support thereof, the Declaration of Kyle Batter, all matters of which the Court may

1 take judicial notice, and such other evidence and argument as may be presented at or
2 before the hearing on this Motion.¹

3
4 DATED: October 6, 2023

QUINN EMANUEL URQUHART &
SULLIVAN, LLP

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6
7 By: /s/ Diane M. Doolittle

Diane M. Doolittle

Attorneys for Defendant Michael Goguen

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28 ¹ The conferral requirement in L.R. 7-3 does not apply to this Motion because
Baptiste is appearing *pro se* and is not an attorney.

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **PRELIMINARY STATEMENT**

3 Amber Baptiste has been prosecuting specious claims against Michael Goguen
4 for the last seven years. Starting in 2016, Baptiste began filing frivolous lawsuits,
5 posting false, incendiary messages on social media, and making fraudulent reports to
6 law enforcement, all to try to take down her former, occasional paramour. Her efforts
7 have been a spectacular failure. By 2019, the San Mateo Superior Court dismissed
8 her first lawsuit with prejudice. Later in 2019, after a full trial on the merits on
9 Goguen’s counterclaims in the same matter, Baptiste was found to have extorted,
10 defrauded, and defamed Goguen. The Court entered judgment against her for \$14
11 million and enjoined her from re-publishing her slanderous invective.

12 Undeterred by her loss, however, Baptiste has filed multiple additional lawsuits
13 and untold frivolous motions against Goguen and dozens of people loosely affiliated
14 (and some entirely unaffiliated) with the original case, asserting the same claims that
15 she litigated and lost. Although each court that has considered the issue has dismissed
16 these follow-on lawsuits, calling them “patently frivolous,” “duplicative,” “an
17 unauthorized collateral attack on the judgment of the San Mateo County Superior
18 Court,” “appear[ing] to have no purpose other than a vexatious one of circumventing
19 the civil harassment restraining order entered by the San Mateo County Superior
20 Court,” and “barred by res judicata,” there is no end in sight. Baptiste has threatened
21 that she will be “filing [duplicative lawsuits] in every court,” “in each and every
22 jurisdiction country, city, province, state, [and] district.” (Declaration of Kyle Batter
23 filed herewith, Exhibit J.) She is now doing exactly what she threatened. In 2023
24 alone, she filed *six* new, copycat lawsuits in state and federal courts in California,
25 federal courts in New York and Montana, and the District Court in Canada.

26 This Court should exercise its inherent power to regulate the activities of
27 abusive litigants to declare Baptiste a “vexatious litigant.” Her flagrant abuse of the
28

1 judicial process to play out her campaign of vindictiveness and spitefulness against
2 Goguen cannot be tolerated.

3 Accordingly, Goguen respectfully requests that the Court (1) enter an order
4 declaring that Baptiste is a vexatious litigant, and (2) enter a pre-filing order enjoining
5 Baptiste from filing any complaint or other document (a) making any of the false
6 allegations that the San Mateo Superior Court twice enjoined Baptiste from making²
7 or (b) against any of the following individuals, without first obtaining leave of the
8 court in which she intends to file:

- 9 • Michael Lewis Goguen
- 10 • Jamie Stephenson Goguen (Mr. Goguen's wife)
- 11 • Two Bear Capital (Mr. Goguen's company)
- 12 • Goguen's counsel Quinn Emanuel Urquhart & Sullivan, LLP, including but
13 not limited to the following attorneys: John Quinn, Kathleen Sullivan, Diane
14 M. Doolittle, Bruce Van Dalsem, Christopher Tayback, William Price,
15 Suong Nguyen, Joseph Sarles, Patrick Doolittle, Margret Caruso, Michael
16 Lifrak, Sara Pollock, Kyle Batter, Megan Kerr, Alex Gerbi, Ted Greeno,
17 Aidan O'Rourke, Leonidas Angelakos, and Gregory Pantlin

18 **STATEMENT OF FACTS**

19 **I. Baptiste Lost in the San Mateo Superior Court**

20 Baptiste and Goguen were involved in an on-again off-again romantic
21 relationship over the span of more than a decade. (Batter Decl., Exhibit A (Final
22 Statement of Decision) at ¶ 3.)³ In 2013, Goguen ended that relationship. (*Id.* ¶ 59.)

23
24 ² See Batter Decl., Exs. B & C at Attachment 11.

25 ³ Goguen respectfully requests that the Court take judicial notice of Exhibits A-
26 I, which are documents filed by federal or state courts. Rule of Evidence 201 allows
27 the Court to take judicial notice of a fact "not subject to reasonable dispute because it
28 . . . can be accurately and readily determined from sources whose accuracy cannot
reasonably be questioned." Fed. R. Evid. 201(b)(2). This Court routinely takes

1 In response, Baptiste expressed to Goguen that her “heart [was] broken,” that she was
 2 “so mad” about the break-up she “could spit hornets,” and she threatened that if
 3 Goguen did “not want to love” her, he could “pay” her instead. (*Id.* ¶¶ 61-63.)
 4 Baptiste then repeatedly threatened to file a lawsuit against Goguen, falsely claiming
 5 that he had infected her with a sexually transmitted disease. (*Id.* at page 1.) To avoid
 6 a public lawsuit over false and incendiary claims, Goguen entered into a settlement
 7 agreement with Baptiste. (*Id.*) In return, Baptiste agreed, among other things, to
 8 cease all communications with Goguen. (*Id.*) During the first seven months after
 9 signing the agreement, however, Baptiste sent Goguen nearly 1,600 threatening and
 10 harassing text messages. (*Id.*) In response, Goguen told Baptiste that she had
 11 breached their agreement, and so he would not continue to perform. (*Id.*) Enraged,
 12 Baptiste sent Goguen a barrage of text messages over the next 15 months, accusing
 13 Goguen of numerous crimes and misdeeds (including fabricated claims of rape and
 14 human trafficking) and threatening to sue him. (*Id.*)

15 On March 8, 2016, Baptiste followed through with her threats and filed a
 16 lawsuit against Goguen in the San Mateo Superior Court for breach of her extorted
 17 contract. (*Id.* 111.) Baptiste falsely asserted that Goguen was engaged in human
 18 trafficking and sexually assaulted Baptiste and others. (*Id.*) On March 14, 2016,
 19 Goguen filed a cross-complaint for, among other things, extortion, fraud, and a civil
 20 harassment restraining order. (*Id.* ¶ 113.) On September 12, 2019, Baptiste’s
 21 complaint was dismissed in its entirety due to her “willful violation” of numerous
 22 court orders. (*Id.* ¶ 119.) Goguen’s cross claims proceeded to trial on October 28,
 23 2019. (*Id.* ¶ 129.) Following a trial on the merits, the court issued its Final Statement
 24 of Decision on January 24, 2020, finding that Baptiste extorted and defrauded Goguen
 25 for \$40 million. (*Id.* at pages 38-39.)

26
 27
 28 judicial notice of documents from other courts. *See, e.g., GemCap Lending, LLC v. Quarles & Brady, LLP*, 269 F. Supp. 3d 1007, 1019 (C.D. Cal. 2017).

1 **II. The San Mateo Superior Court Issued Two Restraining Orders Against**
 2 **Baptiste**

3 As part of the San Mateo Superior Court’s Judgment, the court issued a civil
 4 harassment restraining order against Baptiste, ordering that she was restrained “from
 5 repeating [eighteen enumerated] false and defamatory statements” concerning
 6 Goguen. (Batter Decl., Ex. A at 39-40; *id.*, Ex. B (Restraining Order).) On March 6,
 7 2023, following Baptiste’s repeated violations of the Restraining Order, the court
 8 renewed the Order for a further three years. (*Id.*, Ex. C (Renewed Restraining Order).)

9 The Restraining Orders prohibit Baptiste from falsely alleging, among other
 10 things, that Goguen: (1) purchased Baptiste from an organized crime syndicate; (2)
 11 raped or abused Baptiste or any other women; (3) infected Baptiste or any other
 12 women with an STD; (4) kept Baptiste as a sex slave; (5) tore Baptiste’s anal canal
 13 during sex; (6) stalked or harassed Baptiste or any other persons; (7) engaged in
 14 human trafficking; (8) is a pedophile, psychopath, pervert, or sexual deviant; (9)
 15 forced women to have abortions; (10) committed or solicited murder; (11) bribed the
 16 Court, attorneys, or law enforcement; (12) tampered with evidence; (13) married
 17 multiple prostitutes; (14) committed tax fraud; or (15) silenced victims through
 18 nondisclosure agreements. (*Id.* at Attachment 11.)

19 **III. The San Mateo Superior Court Found Baptiste in Contempt For**
 20 **Repeatedly Violating the Restraining Orders**

21 Baptiste largely ignored the Restraining Orders and continued to repeatedly
 22 defame Goguen, including by making additional filings that, as the San Mateo
 23 Superior Court put it, were “over 1000 pages” and “replete with statements that were
 24 enjoined by the Court’s Restraining Order.” (Batter Decl., Ex. D (Order Denying
 25 Motion) at 3, 4.) Baptiste’s continued violations prompted the court to issue an order
 26 to show cause as to why Baptiste should not be held in contempt for “engag[ing] in a
 27 pattern of conduct in apparent violation of the Restraining Order’s restriction on her
 28 repeating statements concerning Goguen which have been previously adjudicated as

1 false and defamatory.” (*Id.*, Ex. E (Order to Show Cause) at 2.)

2 On August 3, 2023, at the hearing on the Order to Show Cause, the court found
3 that Baptiste had “willfully disobeyed the Temporary Restraining Orders on at least
4 nine separate occasions by repeating enumerated false and defamatory statements”
5 and found Baptiste “guilty of contempt of court on nine counts of contempt.” (*Id.*,
6 Ex. F (Order re Contempt).)

7 **IV. Baptiste Has Lost in this Court Three Times**

8 **A. This Court Dismissed Baptiste’s First Suit as Patently Frivolous**

9 On March 28, 2023, only weeks after the San Mateo Superior Court issued the
10 Renewed Restraining Order, Baptiste filed a complaint against Goguen in this Court.
11 (Case No. 2:23-cv-02280-MEMF-SK, ECF No. 1.) The retaliatory 1,753-page *pro se*
12 filing purported to bring claims against more than 150 named defendants including
13 Goguen, his wife, several of Goguen’s companies (including Two Bear Capital),
14 Judge Danny Chou of the San Mateo Superior Court who presided over the trial,
15 numerous other San Mateo county judges who issued orders against Baptiste, multiple
16 law firms (including Goguen’s counsel Quinn Emanuel Urquhart & Sullivan LLP and
17 many of its attorneys), the United States of America, the State of California, the U.S.
18 Mint, and a host of unrelated corporations and executives including Microsoft, Oracle,
19 GMC, Apple, Kodak, Boeing, Honda Motor Company, Elon Musk, Bill Gates, the
20 World Bank, “Rappers,” and “Rock Stars.” (*Id.* at 3-19.) As with her complaint in
21 San Mateo Superior Court, Baptiste’s first C.D. Cal. complaint falsely claimed that
22 Goguen was engaged in human trafficking and sexually assaulted Baptiste and others,
23 as well as made the other false claims Baptiste was enjoined from making—all issues
24 that were conclusively decided against Baptiste by the San Mateo Superior Court at
25 trial. (*See, e.g., id.* at 59.)

26 Shortly thereafter, the Court sealed many of Baptiste’s filings because they
27 violated the Restraining Orders. (ECF Nos. 9, 17, 35.) The Court gave Baptiste “a
28 chance to explain (if possible) why her complaint should be allowed to proceed given

1 its manifest deficiencies.” (Batter Decl., Ex. G (Dismissal Order) at 4.) Yet rather
 2 than appropriately respond to the Court’s Order, Baptiste “doubled down” by filing
 3 an application for a temporary restraining order, a “defective motion for default
 4 judgment,” and “a 500-page motion for summary judgment supported by a 1,700-
 5 page declaration with exhibits,” “which not only referenced prohibited statements
 6 from the state court restraining order but again included sexually explicit content.”
 7 (*Id.*) Baptiste’s filings were, this Court concluded, in “flagrant violation of the [San
 8 Mateo Superior] court’s order” and “fail[ed] to show cause why [Baptiste’s]
 9 complaint should not be dismissed [due to a number of] deficiencies.” (*Id.*)

10 On May 22, 2023, this Court dismissed Baptiste’s complaint *sua sponte* with
 11 prejudice, finding that it was “patently frivolous,” “an unauthorized collateral attack
 12 on the judgment of the San Mateo County Superior Court, which entered a civil
 13 harassment restraining order against plaintiff and in favor of defendant Michael
 14 Goguen.” (*Id.*) The Court further found that Baptiste’s complaint “fail[ed] all . . .
 15 pleadings standards,” and “contain[ed] incomprehensible ramblings with no coherent
 16 factual allegations or intelligible legal claims,” and “appear[ed] to have no purpose
 17 other than a vexatious one of circumventing the civil harassment restraining order
 18 entered by the San Mateo County Superior Court.” (*Id.*)

19 **B. This Court Dismissed Baptiste’s Second Suit as Frivolous,**
 20 **Malicious, and Duplicative of Baptiste’s First Suit**

21 The Court’s dismissal of Baptiste’s first suit did not stop Baptiste’s abuse of
 22 the legal system. Several weeks later, on June 14, 2023, she filed another complaint
 23 in this Court (again against Goguen’s counsel Quinn Emanuel Urquhart & Sullivan
 24 LLP and many of its attorneys), though she sought to conceal her identity from the
 25 Court by filing under the pseudonym “Jane Freedom Doe.” (Case No. 2:23-cv-04723-
 26 MEMF-SK, ECF No. 1.) As with Baptiste’s two prior complaints, this complaint
 27 again falsely claimed that she had been trafficked and sexually assaulted by Goguen,
 28 as well as made the other false claims Baptiste was enjoined from making. (*See, e.g.,*

1 *id.* at 8.) The Court quickly recognized that “Jane Freedom Doe” was actually
 2 Baptiste in disguise and *sua sponte* dismissed her complaint with prejudice just two
 3 days later, finding that “[t]his action is duplicative of one the Court previously
 4 dismissed with prejudice” and therefore “this newly filed action also must be
 5 dismissed with prejudice.” (Batter Decl., Ex. H (Dismissal Order).)

6 C. **This Court Dismissed Baptiste’s Third Suit as Frivolous, Malicious,**
 7 **and Barred by Res Judicata**

8 Apparently recognizing that she would have no luck in C.D. Cal., on July 6,
 9 2023, Baptiste subsequently filed an identical 1,355-page complaint in the District
 10 Court for the Southern District of New York (Case No. 1:23-cv-05881-UA), but the
 11 court was made aware of Baptiste’s prior filings and thus transferred her case to C.D.
 12 Cal., where her prior actions had been dismissed with prejudice. (Case No. 2:23-cv-
 13 06439-MEMF-SK, ECF No. 8.) For the *fourth* time, Baptiste sought to relitigate the
 14 very issues she had lost at trial, and against all of the same purported defendants as
 15 her prior suits, including Goguen, his wife, his company Two Bear Capital, his
 16 counsel Quinn Emanuel, and countless others. (*See, e.g.*, ECF No. 1 at 1-4, 27, 29.)
 17 On September 20, 2023, the Court *sua sponte* dismissed Baptiste’s suit with prejudice,
 18 again finding that it was “frivolous or malicious” and “barred by res judicata” because
 19 Baptiste had “raised her allegations twice before” and “the allegations in the instant
 20 action are almost identical to the allegations in [her first C.D. Cal. suit].” (Batter
 21 Decl., Ex. I (Dismissal Order) at 2.)

22 The Court’s three Dismissal Orders have not stopped Baptiste, and she has filed
 23 *a fifth* substantively identical complaint, this time in the District Court for the District
 24 of Montana (though the caption states “District of Columbia,” suggesting that Baptiste
 25 plans to recycle her frivolous claims with District Courts around the country). (Batter
 26 Decl. ¶ 25.)

V. **Baptiste Has Repeatedly and Falsely Claimed That Goguen Bribes the Judiciary and That Judges in C.D. Cal. Accepted Bribe Money in Exchange for Dismissing Baptiste’s Complaints**

During the pendency of Baptiste’s case in San Mateo Superior Court, she made numerous false claims that Goguen “bribed the Court, Baptiste’s attorneys, and law enforcement, and tampered with records to hide his crimes.” (Batter Decl., Ex. A at ¶ 102.) In light of Baptiste’s repeated false claims, the court restrained Baptiste from claiming that Goguen “bribed the Court, attorneys, or law enforcement.” (*Id.*, Ex. C at Attachment 11.) However, since then, Baptiste has continued to make these false claims unabated. (*See, e.g.*, Ex. J at 1 (claiming Goguen has control over “henchmen dirty cops [and] bribed judges”).)

More recently, Baptiste has extended her outlandish claims of bribery to Central District of California Judges Maame Ewusi-Mensah Frimpong and Steve Kim. Specifically, on August 18, 2023, after this Court dismissed two of Baptiste’s three C.D. Cal. complaints, Baptiste filed a motion to disqualify Judges Frimpong and Kim, claiming that “Steve Kim and Hon Maame Frimpong are also accepting bribe money to deprive me of a trial while acting under the color of the law.” (Case No. 2:23-cv-06439-MEMF-SK, ECF No. 13 at 9; *see also id.* at 79 (stating that “[t]hese California judges who are committing criminal acts while in their position and accepting bribery can be prosecuted”); *id.* at 9 (claiming that “Judge Frimpong and Judge Kim . . . continue obstruction [sic] the course of justice”); *id.* at 6 (asserting that her “case should not be assigned to [Judges Frimpong and Kim] under any circumstances” because “they are not mentally fit to preside over my case due to corruption and their prejudice”); Batter Decl., Ex. K (claiming that Judges Frimpong and Kim were part of the “malicious conspiracy” to “deprive [Baptiste] of a right to trial”); *id.*, Ex. V (accusing Judge “Maame Frimpong [of] . . . judicial corruption”).

1 **VI. Having Had All Three of Her Frivolous Suits Dismissed by This Court,**
 2 **Baptiste Has Threatened to File in “Each and Every Jurisdiction[,]**
 3 **Country, City, Province, State, [and] District”**

4 This Court’s with-prejudice dismissal of Baptiste’s three nearly identical
 5 complaints has unfortunately not deterred her. Rather than accept the Court’s rulings,
 6 Baptiste has since repeatedly threatened to file countless other vexatious complaints
 7 in state and federal courts across the country—as well as around the globe. For
 8 instance, on August 3, 2023, shortly after this Court dismissed Baptiste’s first two
 9 C.D. Cal. complaints, and the very day the San Mateo Superior Court held Baptiste
 10 in contempt for repeatedly violating the Restraining Orders, Baptiste emailed
 11 Goguen’s counsel, the San Mateo Superior Court, and a host of third parties that she
 12 was “never going back to the San Mateo court ever again in [her] life,” and instead
 13 would be “filing in every court,” “in each and every jurisdiction country, city,
 14 province, state, [and] district.” (Batter Decl., Ex. J at 1-3.) In addition to suing
 15 Goguen and his attorneys (as she had done before), Baptiste threatened to add “the
 16 Canadian Government, the US Government, [and] the King of England.” (*Id.* at 3.)
 17 Baptiste followed up with a further threatening email, stating, “I am going to file in
 18 several more jurisdictions, states and countries.” (*Id.*, Ex. L.) Baptiste made true on
 19 that threat shortly thereafter by filing yet another duplicative suit—her *sixth*—this
 20 time in the California Superior Court, County of Orange, and then a *seventh* suit in
 21 Ontario, Canada. (Batter Decl. ¶¶ 26, 27.)

22 These threat from Baptiste are hardly outliers. In just the last two months alone
 23 she has threatened to file additional lawsuits for the same previously adjudicated
 24 claims *dozens* of times. (See, e.g., *id.*, Ex. M (threatening to file in “[e]very
 25 jurisdiction where I was trafficked by Hells Angels” and “[e]very place the [sic]
 26 predator transported me”); *id.*, Ex. N (threatening that “[s]ervice of all my additional
 27 lawsuits to come in this week”); *id.*, Ex. O (threatening, “I am also filing on the Crown
 28 Of the United Kingdom as that is my legal right. And if possible I will file in the

1 international crimes court.”); *id.*, Ex. P (threatening to file with “the supreme court of
 2 Canada and the Supreme Court of the united states”); *id.*, Ex. Q (“I am starting my
 3 Vlog this weekend and where I will exhibit step by step about how to go before the
 4 Supreme Court”); *id.*, Ex. R (threatening Goguen’s attorneys, “ I will see all of you
 5 criminals . . . at your state bar trial”); *id.* (threatening to “extradit[e] you psychos [i.e.,
 6 Goguen and his attorneys] for trial outside of the United States”); *id.*, Ex. S
 7 (threatening that, “[a]ll of my cases to extradite the defendants start next week”); *id.*,
 8 Ex. T (threatening to sue JAMS “for [Judge] Read Ambler[’]s corruption” in
 9 overseeing discovery disputes in Baptiste’s San Mateo case); *id.*, Ex. U (threatening
 10 to file an action in Canada so Baptiste could “extradite the psychopath [Goguen] to
 11 Canada”); *id.* (threatening to file suit in the U.S. Virgin Islands, based on the false
 12 claim she was trafficked there); *id.*, Ex. V (threatening to file a “total [of] 244 causes
 13 of action” and “find some additional Montana causes of action” so that Baptiste could
 14 “proceed to trial in the supreme court of montana”).

15 Her apparent rational in threatening scattershot filings in state and federal
 16 courts across the country and around the globe is her hope to re-litigate all of the
 17 issues she ***definitively lost*** in the San Mateo Superior Court after a trial on the merits
 18 and circumvent the Restraining Orders issued against her. (*See, e.g., id.*, Ex. W (“You
 19 are not ever going to be able to get *every judge in every country* to deprive me of my
 20 rights. Clearly Judicial bribery is rampant in this country”) (emphasis added).) Based
 21 on her many emails, threats, and lawsuits, it is apparent that Baptiste will continue to
 22 file frivolous, vexatious, nearly identical suits around the county unless she is
 23 enjoined from doing so with court oversight and approval.

24 LEGAL STANDARDS

25 **I. Courts Have Inherent Power to Declare a Person a Vexatious Litigant**

26 “[T]here is strong precedent establishing the inherent power of federal courts
 27 to regulate the activities of abusive litigants.” *De Long v. Hennessey*, 912 F.2d 1144,
 28 1147 (9th Cir. 1990). “Flagrant abuse of the judicial process cannot be tolerated

1 because it enables one person to preempt the use of judicial time that properly could
 2 be used to consider the meritorious claims of other litigants.” *Molski v. Evergreen*
 3 *Dynasty Corp.*, 500 F.3d 1047, 1057, 1062 (9th Cir. 2007). Specifically, the All Writs
 4 Act (28 U.S.C. 1651) empowers courts to “enjoin[] litigants with abusive and lengthy
 5 [litigation] histories.” *De Long*, 912 F.2d at 1144.

6 **II. C.D. Cal. Local Rules Affirm and Augment the Court’s Inherent Powers**

7 “It is the policy of the [District Court for the Central District of California] to
 8 discourage vexatious litigation” and “the intent of [the Local Rules] to augment the
 9 inherent power of the Court to control vexatious litigation.” C.D. Cal. Local Rule 83-
 10 8.1. “On its own motion or on motion of a party, after opportunity to be heard, the
 11 Court may, at any time . . . make such . . . orders as are appropriate to control the
 12 conduct of a vexatious litigant.” *Id.* 83-8.2. “Such orders may include, without
 13 limitation, a directive to the Clerk not to accept further filings from the litigant without
 14 payment of normal filing fees and/or without written authorization from a judge of
 15 the Court or a Magistrate Judge, issued upon such showing of the evidence supporting
 16 the claim as the judge may require.” *Id.* “Any order issued under L.R. 83-8.2 shall
 17 be based on a finding that the litigant to whom the order is issued has abused the
 18 Court’s process and is likely to continue such abuse, unless protective measures are
 19 taken.” *Id.* 83-8.3.

20 **III. Courts Employ a Four Factor Test for a Finding of Vexatiousness**

21 Courts in the Ninth Circuit may enter an order finding that a person is a
 22 vexatious litigant who must be “enjoined . . . from filing any further actions or papers
 23 with the federal district court without first obtaining leave” after the court (1) gives
 24 the litigant notice and an opportunity to oppose the order, (2) creates an adequate
 25 record reflecting that “the litigant’s activities were numerous or abusive,” (3) makes
 26 a “substantive finding as to the frivolous or harassing nature of the litigant’s actions,”
 27 and (4) crafts an order that is tailored “to closely fit the specific vice encountered.” *De*
 28 *Long*, 912 F.2d at 1145; *Molski*, 500 F.3d at 1057.

1 “The first two requirements, (1) notice and an opportunity to be heard and (2)
 2 the creation of an adequate record, are procedural considerations The latter two
 3 factors, requiring (3) findings of frivolousness or harassment and (4) that the order be
 4 narrowly tailored to prevent the litigant’s abusive behavior, are substantive
 5 considerations.” *Molski*, 500 F.3d at 1057. The Second Circuit opinion in *Safir v.*
 6 *U.S. Lines, Inc.*, 792 F.2d 19 (2d Cir. 1986) established a “five-factor standard [that]
 7 provides a helpful framework for applying the two substantive factors (factors three
 8 and four) of [the Ninth Circuit’s] four-factor standard.” *Id.* at 1058. The *Safir* factors
 9 are: “(1) the litigant’s history of litigation and in particular whether it entailed
 10 vexatious, harassing, or duplicative suits; (2) the litigant’s motive in pursuing the
 11 litigation, for example, whether the litigant had a good faith expectation of prevailing;
 12 (3) whether the litigant is represented by counsel; (4) whether the litigant has caused
 13 unnecessary expense to the parties or placed a needless burden on the courts; and (5)
 14 whether other sanctions would be adequate to protect the courts and other parties.”
 15 *Id.* at 1051.

16 ARGUMENT

17 Goguen’s Motion satisfies each of the elements in *De Long* and *Molski*, thus
 18 warranting a finding that Baptiste is a vexatious litigant who must be enjoined from
 19 further vexatious filings. Specifically, Goguen’s Motion (1) provides Baptiste with
 20 the requisite notice, (2) lists Baptiste’s prior frivolous and harassing filings (as well
 21 as details her plans to continue with such filings), (3) explains—as the Court has
 22 already held on three separate occasions—why Baptiste’s prior filings are frivolous
 23 and harassing, and (4) seeks an order that is appropriately tailored to preventing
 24 further such filings by Baptiste, by requesting a pre-filing order that Baptiste be
 25 enjoined from filing any complaint or other document making the false allegations
 26 the San Mateo Superior Court twice enjoined Baptiste from making, or against the
 27 purported defendants named in Baptiste’s vexatious lawsuits, without first obtaining
 28 leave of court.

1 **I. THE PROCEDURAL FACTORS**

2 **A. This Motion Provides Baptiste with the Requisite Notice and An**
 3 **Opportunity to Oppose**

4 Notice is satisfied where the litigant is “provided with an opportunity to oppose
 5 the order [finding vexatiousness] before it [is] entered.” *De Long*, 912 F.2d at 1145.
 6 “[A]n opportunity to be heard does not require an oral or evidentiary hearing on the
 7 issue”; “the opportunity to brief the issue fully satisfies due process requirements.”
 8 *Molski*, 500 F.3d at 1059.

9 Through this Motion, Goguen has provided Baptiste with notice of his request
 10 that she be deemed a vexatious litigant and enjoined from making further frivolous
 11 filings. *Id.* at 1058 (“Molski had fair notice of the possibility that he might be declared
 12 a vexatious litigant and have a pre-filing order entered against him because the district
 13 court’s order was prompted by a motion filed by the defendants and served on
 14 Molski’s counsel. Also, Molski had the opportunity to oppose the motion, both in
 15 writing and at a hearing.”). Indeed, the Local Rules expressly permit a party to seek
 16 a finding of vexatiousness “on motion of a party.” C.D. Cal. Local Rule 83-8.2.

17 **B. Goguen Has Provided a Record of Baptiste’s Vexatious Filings**

18 Courts create a sufficient “adequate record for review” simply by “listing of all
 19 the cases and motions that led the district court to conclude that a vexatious litigant
 20 order was needed.” *De Long*, 912 F.2d at 1147; *Molski*, 500 F.3d at 1059 (“The
 21 district court compiled a record adequate for review of its order” where “[t]he record
 22 before the district court contained a complete list of the cases filed by Molski in the
 23 Central District of California”).

24 To date, Baptiste has filed no less than *seven* complaints falsely alleging that
 25 Goguen was or is engaged in human trafficking and sexually assaulted Baptiste or
 26 others, as well alleging the other false claims Baptiste was enjoined from making.
 27 The first four of those complaints have been dismissed with prejudice as frivolous,
 28 malicious, vexatious, or as a sanction to Baptiste.

- 1 • *Amber Baptiste v. Michael Goguen*, Case No. CIV537691 (San Mateo
2 Superior Court, 2016) (Baptiste’s complaint dismissed with prejudice due
3 to her willful violation of numerous court orders; Goguen prevailed at trial
4 on all counterclaims, obtained an order finding Baptiste’s allegations to be
5 false and defamatory, and obtained an injunction against her from
6 republishing them). (Batter Decl., Ex. A at ¶ 119, pages 33-36).
- 7 • *Amber Doe v. Michael Goguen*, Case No. 2:23-cv-02280-MEMF-SK (C.D.
8 Cal. 2023) (dismissed with prejudice as “legally and/or factually patently
9 frivolous”). (Batter Decl., Ex. G.)
- 10 • *Jane Freedom Doe v. Michael Goguen*, Case No. 2:23-cv-04723-MEMF-
11 SK (C.D. Cal. 2023) (dismissed with prejudice as “frivolous or malicious”).
12 (Batter Decl., Ex. H.)
- 13 • *Amber Doe v. Sequoia Capital et al.*, Case No. 2:23-cv-06439-MEMF-SK
14 (C.D. Cal. 2023) (dismissed with prejudice as “frivolous” and “barred by
15 res judicata”).
- 16 • *Amber Doe v. Michael Goguen et al.*, Case No. 9:23-cv-00088-DWM (D.
17 Mont. 2023) (motion to dismiss pending). (Batter Decl. ¶ 25.)
- 18 • *Amber Laurel Baptiste v. Michael Lewis Goguen et al.*, Case No. 30-2016-
19 00853797-CU-BC-CJC) (Orange County Superior Court) (filed September
20 18, 2023). (Batter Decl. ¶ 25.)
- 21 • *Jane Doe v. Michael Goguen et al.*, Case No. CV-23-00093358-0000
22 (Ontario, Canada, Superior Court of Justice) (filed September 25, 2023).
23 (Batter Decl. ¶ 27.)

24 **II. THE SUBSTANTIVE FACTORS**

25 **A. The Court Has Repeatedly Held That Baptiste’s Serial Findings** 26 **are Frivolous and Vexatious**

27 “The third factor set forth by *De Long* gets to the heart of the vexatious litigant
28 analysis.” *Molski*, 500 F.3d at 1059 (affirming order “declaring Molski a vexatious

1 litigant and . . . imposing a pre-filing order against him” where “Molski used [repeated
2 ADA] lawsuits and their false and exaggerated allegations as a harassing device”). A
3 Court’s findings of frivolousness or harassment are each independently sufficient to
4 constitute vexatiousness. *De Long*, 912 F.2d at 1148. To make a finding of
5 frivolousness or harassment, courts “look at both the number and content of the filings
6 as indicia of the frivolousness of the litigant’s claims.” *Id.*

7 This Court has *already found*—on three separate occasions—that Baptiste’s
8 filings are frivolous and duplicative. *See, e.g., Safir*, 792 F.2d at 24 (in evaluating
9 vexatiousness, courts consider “the litigant’s history of litigation” and whether it
10 included “duplicative lawsuits”). Specifically, on May 22, 2023, the Court dismissed
11 Baptiste’s first C.D. Cal. complaint with prejudice, finding that it was “patently
12 frivolous,” “an unauthorized collateral attack on the judgment of the San Mateo
13 County Superior Court,” “contain[ed] incomprehensible ramblings with no coherent
14 factual allegations or intelligible legal claims,” and “appear[ed] to have no purpose
15 other than a vexatious one of circumventing the civil harassment restraining order
16 entered by the San Mateo County Superior Court.” (Batter Decl., Ex. G.) But that
17 did not stop Baptiste, who simply filed another complaint. The Court dismissed that
18 as well, finding that it, too, was “frivolous or malicious” and “duplicative of one the
19 Court previously dismissed with prejudice.” (*Id.*, Ex. H.) Baptiste, however, was
20 undeterred and filed yet *another* complaint, this time in S.D.N.Y. in an effort to avoid
21 C.D. Cal. But after the case was transferred, this Court yet again dismissed her
22 complaint with prejudice, and again found that it was “frivolous” and “barred by res
23 judicata” because Baptiste had “raised her allegations twice before” and “the
24 allegations in the instant action are almost identical to the allegations in [her first C.D.
25 Cal. suit].” (*Id.*, Ex. I.)

26 A vexatious litigant order is warranted where—as here—the court has made a
27 “finding as to the frivolous or harassing nature of the litigant’s actions.” *De Long*,
28 912 F.2d at 1148. Baptiste’s repeated suits have caused “needless expense to other

1 parties [and have] posed an unnecessary burden on the courts and their personnel.”
 2 *Safir*, 792 F.2d at 24. Further, Baptiste’s complaints are wholly without merit, but
 3 even if they had some modicum of merit, they would still be vexatious and harassing
 4 because they continue to make false allegations expressly prohibited by the
 5 Restraining Orders. “Frivolous litigation is not limited to cases in which a legal claim
 6 is entirely without merit. It is also frivolous for a claimant who has some measure of
 7 a legitimate claim to make false factual assertions.” *Molski*, 500 F.3d at 1060.

8 Baptiste has since continued with her nearly duplicative, frivolous filings, filing
 9 in California state court, Montana federal court, and in Ontario, Canada. And she has
 10 repeatedly threatened that—perhaps absent an order enjoining further vexatious
 11 filings—she will never stop: “I am filing in every court, in every country”; “I am filing
 12 in each and every jurisdiction country, city, province, state, [and] district.” (Batter
 13 Decl., Ex. J at 1-3.) “I am going to file in several more jurisdictions, states and
 14 countries.” (*Id.*, Ex. L; *see also id.*, Exs. M-W.) “Ultimately, the question the court
 15 must answer is whether a litigant who has a history of vexatious litigation is likely to
 16 continue to abuse the judicial process and harass other parties.” *Safir*, 792 F.2d at 24.

17 **B. Goguen’s Request Seeks Appropriately Tailored Relief**

18 A pre-filing order finding vexatiousness is appropriately tailored when it
 19 restricts a litigant “from filing new actions [1] paralleling the issues being litigated”
 20 or “[2] from relitigating issues decided in [prior] cases,” absent review and approval
 21 by the court. *De Long*, 912 F.2d at 1148; *see also Molski*, 500 F.3d at 1061. Such
 22 pre-filing orders are permissible and do not deny access to the courts because they
 23 “merely subject[] [the litigant’s] complaints to an initial screening review by a district
 24 judge.” *Molski*, 500 F.3d at 1061. Such orders “add[] a valuable layer of protection
 25 . . . for the courts and those targeted by [the litigant’s frivolous] claims.” *Id.*

26 Goguen’s request for a pre-filing order is appropriately tailored to Baptiste’s
 27 frivolous and vexatious filings. Goguen is not requesting an order enjoining Baptiste
 28 from filing *any* complaint absent court review. Rather, Goguen is requesting that any

1 complaint by Baptiste that (1) repeats the false allegations the San Mateo Superior
 2 Court twice enjoined Baptiste from making—*and that Baptiste has repeated*
 3 *throughout her seven vexatious lawsuits*—or, (2) is brought against Goguen, his
 4 family, his companies, or his counsel—as Baptiste’s seven vexatious lawsuits have
 5 been—be subject to an initial screening review before being accepted by a court. *See,*
 6 *e.g., De Long*, 912 F.2d at 1148 (a pre-filing order that “closely fit[s] the specific vice
 7 encountered” is valid); *Molski*, 500 F.3d at 1061 (affirming as appropriately tailored
 8 a finding of vexatiousness and pre-filing order that “prevent[ed] Molski from filing
 9 actions under Title III of the ADA”); *Safir*, 792 F.2d at 25 (enjoining litigant “from
 10 commencing additional federal court actions relating in any way to defendants’
 11 pricing practices or merchant marine subsidies during the 1965–1966 period without
 12 first obtaining leave of the district court”). To be clear, neither Goguen, his family,
 13 companies, nor counsel have *any* ongoing relationship with Baptiste. She has no
 14 reason to file suit against any of them—other than an improper and vexatious one.
 15 Absent Goguen’s requested pre-filing order, Baptiste’s vexatious lawsuits and
 16 abusive of the judicial process are almost certain to continue unabated. *See* L.R. 83-
 17 8.3.

18 CONCLUSION

19 For the foregoing reasons, and consistent with Local Rule 83-8, Goguen
 20 respectfully requests that the Court (1) enter an order declaring that Baptiste is a
 21 vexatious litigant, and (2) enter a pre-filing order enjoining Baptiste from filing any
 22 complaint or other document in any court, state or federal, within the United States or
 23 its possessions, (a) making any of the false allegations that the San Mateo Superior
 24 Court twice enjoined Baptiste from making or (b) against any of the following
 25 individuals, without first obtaining leave of the court in which she intends to file:

- 26 • Michael Lewis Goguen
- 27 • Jamie Stephenson Goguen (Mr. Goguen’s wife)
- 28 • Two Bear Capital (Mr. Goguen’s company)

- Goguen’s counsel Quinn Emanuel Urquhart & Sullivan, LLP, including but not limited to the following attorneys: John Quinn, Kathleen Sullivan, Diane M. Doolittle, Bruce Van Dalsem, Christopher Tayback, William Price, Suong Nguyen, Joseph Sarles, Patrick Doolittle, Margret Caruso, Michael Lifrak, Sara Pollock, Kyle Batter, Megan Kerr, Alex Gerbi, Ted Greeno, Aidan O’Rourke, Leonidas Angelakos, and Gregory Pantlin

DATED: October 6, 2023

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